

1  
2  
3  
4

5 UNITED STATES DISTRICT COURT  
6 NORTHERN DISTRICT OF CALIFORNIA

7  
8 DAVID CAPLAN, Case No. C-06-05865 CW (JCS)  
9 Plaintiff(s),

10 v.

11 CNA FINANCIAL CORPORATION,  
ET AL.,

12 Defendant(s).

13 \_\_\_\_\_ /  
14  
15 **NOTICE OF REFERENCE; ORDER  
TO MEET AND CONFER AND  
SUBMIT JOINT LETTER; TIME AND  
PLACE OF HEARING**

16 TO ALL PARTIES AND COUNSEL OF RECORD:

17 The above matter has been referred to Magistrate Judge Joseph C. Spero for resolution of all  
pending and future discovery matters.

18 Before the Court are two motions: (1) Plaintiff's Motion to Compel Production of  
19 Documents and Answers to Interrogatories Against Defendant CNA Long Term Disability Plan  
20 [Docket No. 61] and (2) Plaintiff's Motion to Compel Production of Documents and Answers to  
21 Interrogatories Against Defendant Hartford Life Group Insurance Company [Docket No. 65].

22 On Tuesday, October 2, 2007, the Court held a Telephonic Discovery Conference in which it  
23 ORDERED the parties to meet and confer and then submit a detailed Joint Letter setting forth the  
24 remaining disputed issues, each side's substantive position, and each side's proposed compromise.  
25 This Joint Letter shall be filed **no later than Friday, October 12, 2007**, and shall serve as the  
26 operative brief for the Motions. No other briefing shall be permitted.

27 The hearing on these Motions has been set for **November 9, 2007, at 9:30 a.m.**, in  
28 Courtroom A, 15th Floor, Federal Building, 450 Golden Gate Avenue, San Francisco, California.

## **LAW AND MOTION HEARING PROCEDURES**

2 Civil law and motion is heard on Friday mornings, at 9:30 a.m., in Courtroom A, 15th Floor,  
3 United States District Court, 450 Golden Gate Avenue, San Francisco, California.

4 In the event a **discovery dispute** arises, IT IS HEREBY ORDERED that before filing any  
5 discovery motion before this Court, the parties must comply with the following:

1. Lead trial counsel for both parties must meet and confer *in person* regarding the matter(s) at issue. This meeting shall occur after other efforts to resolve the dispute, such as telephone, e-mail, teleconference, or correspondence, have been unsuccessful. Once those efforts have proved unsuccessful, any party may demand a meeting of lead trial counsel to resolve a discovery matter. Such a meeting shall occur within ten (10) business days of the demand. The locations of the meetings shall alternate. The first meeting shall be at a location selected by counsel for Plaintiff(s). If there are any future disputes, the next such meeting shall be held at a location to be determined by counsel for Defendant(s), etc.
2. Within five (5) business days of the in-person meeting between lead trial counsel referred to above, the parties shall jointly file a detailed letter with the Court, which will include the matters that remain in dispute, a detailed substantive description of each side's position on each such issue, and a description of each side's proposed compromise on each such issue.
3. After the Court has received the joint letter, the Court will determine what future proceedings, if any, are necessary.

22 In the event that the parties continue to be unable to resolve the matters regarding the timing  
23 and scope of discovery, the Court will consider what future actions are necessary. These actions  
24 may include sanctions against a party failing to cooperate in the discovery process and meet and  
25 confer in good faith, as required by this Order, the Federal Rules of Civil Procedure, and the Local  
26 Rules of this Court.

27 All documents shall be filed in compliance with Civil L. R. 7-2 through 7-5. Documents not  
28 filed in compliance with those rules will not be considered by the Court. Any party seeking an

1 award of attorney's fees or other expenses in connection with this motion shall file a motion in  
2 accordance with Civil L. R. 37-3.

3 A party or counsel has a continuing duty to supplement the initial disclosure when required  
4 under Fed. R. Civ. P. 26(e)(1).

5 Law and motion matters may be submitted without argument upon stipulation of the parties  
6 and notification of the Court no later than 4:30 p.m. the day before the hearing. Pursuant to Civil L.  
7 R. 7-7(e), filed motions may be withdrawn without leave of the Court, within seven (7) days of the  
8 date for service of the opposition. Thereafter, leave of the Court must be sought.

9 All filings of documents relating to motions referred to the undersigned shall list the civil  
10 case number and the district court judge's initials followed by the designation "(JCS)".

11 **ELECTRONIC FILING AND COURTESY COPIES**

12 Please refer to Civil L. R. 5-4 and General Order No. 45 for the Northern District of  
13 California for information relating to electronic filing procedures and requirements.

14 **BEFORE NOON ON THE NEXT BUSINESS DAY FOLLOWING THE ELECTRONIC**  
15 **FILING, THE PARTIES ARE REQUIRED TO LODGE DIRECTLY WITH CHAMBERS ONE**  
16 **PAPER COPY OF EACH DOCUMENT, WHICH IS TO BE DESIGNATED "JCS'S CHAMBERS'**  
17 **COPY."** All filings of documents relating to motions referred to the undersigned shall list the civil  
18 case number and the district court judge's initials, followed by the designation "(JCS)".

19 The failure of counsel or a party to abide by this Order may result in sanctions pursuant to  
20 Fed. R. Civ. P. 16(f).

21 **IT IS SO ORDERED.**

23 Dated: October 11, 2007

  
24 JOSEPH C. SPERO  
25 United States Magistrate Judge  
26  
27  
28